



W.P.(MD) No.12775 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.12775 of 2022
and W.M.P.(MD).No.9063 of 2022

S.Radhakrishnan

... Petitioner

Vs.

**1.The Director of Town Panchayats,
Commissionerate of Municipal Administration,
MRC Nagar, Raja Annamalai Puram,
Chennai – 28.**

**2.The Assistant Director of Town Panchayats,
Nagercoil Zone,
Kanniyakumari District.**

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st respondent in R.C.No.7167/2016/F1, dated 01.04.2021 and to quash the same and to issue consequential direction to the 1st respondent to reinstate the petitioner in service with consequential benefit of continuity of service.



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For Petitioner : Mr.C.Muthu Saravanan

For Respondents : Mr.A.Sivanupandian
Government Advocate

ORDER

Alleging that an enquiry to the Disciplinary Proceedings is contemplated against the petitioner for certain delinquencies, which had occurred in the year 2012-2014, the petitioner was placed under suspension through the impugned order, dated 01.04.2021. More than 1 ½ years have been lapsed, since the petitioner was placed under suspension.

2. The Honourable Supreme Court in the case of *Ajay Kumar Choudhary v. Union of India*, reported in *(2015) 7 SCC 291*, has held that such prolonged suspension is not permissible unless the charges are framed within a period of three months and if no such charges are framed, the respondents are required to pass a reasoned order for extension of such suspension period.



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3. The scope of *Ajay Kumar Choudhary's* case came to be considered by a Full Bench of this Court in the case of ***P.Kannan Vs. 1. The Commissioner for Municipal Administration, Municipal Administration Commission, Ezhilagam, Annexure - 6th Floor, Chepauk, Chennai – 5 and others***, in ***W.P.2165 of 2015 and 21628 of 2018***, dated 15.03.2022 , wherein, it was held that case in *Ajay Kumar Choudhary* does not lay down binding proposition and that the case of suspension requires to be considered on a case to case basis. In the instant case, the delinquencies, for which, the respondents intend to initiate Disciplinary Proceedings does not pertain to criminal charges, but certain irregularities alleged to have been committed by the petitioner in the year 2012-2014. As such, the decision in *Ajay Kumar Choudhary's* case would squarely apply to the facts involved in the present case and hence, the prolonged suspension of the petitioner from the service, cannot be sustained.

4. In the light of the above findings, the impugned proceedings issued by the 1st respondent in R.C.No.7167/2016/F1, dated 01.04.2021, is hereby quashed. In case, the respondents have not paid the subsistence allowance to



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the petitioner, for his period of suspension, the same shall be disbursed to him, at least within a period of two weeks, from the date of receipt of a copy of this order.

5.This writ stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.08.2022

Index : Yes / No
Speaking Order/ Non Speaking Order

TM

To

- 1.The Director of Town Panchayats,
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Chennai – 28.
- 2.The Assistant Director of Town Panchayats,
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M.S.RAMESH,J.

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